

AN ACT

RELATING TO THE WORKERS' COMPENSATION ADMINISTRATION; REMOVING THE LIMITATION ON FUTURE EMPLOYMENT OF OMBUDSMEN; INCREASING THE DIRECTOR'S SALARY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 52-5-1.4 NMSA 1978 (being Laws 1990 (2nd S.S.), Chapter 2, Section 64) is amended to read:

"52-5-1.4. OMBUDSMAN PROGRAM.--

A. The director shall establish an ombudsman program to assist injured or disabled workers, persons claiming death benefits, employers and other persons in protecting their rights and obtaining information available under workers' compensation and occupational disease disablement laws.

B. An ombudsman shall meet with or otherwise provide information to injured or disabled workers, investigate complaints and communicate with employers, insurance carriers and health care providers on behalf of injured or disabled workers. An ombudsman shall otherwise assist unrepresented claimants, employers and other parties to enable them to protect their rights in the workers' compensation and occupational disease disablement system. At least one specially qualified employee in each location that the administration has an office shall be designated by the

director as an ombudsman, and duties described in this section shall be that person's primary responsibility. The director may designate additional ombudsmen and assign them as he deems appropriate.

C. An ombudsman need not be an attorney but shall demonstrate familiarity with workers' compensation and occupational disease disablement laws. Any person employed as an ombudsman shall be ineligible to hold any other position in the administration for at least one year from the date of leaving the position of ombudsman.

D. An ombudsman shall not be an advocate for any person and shall restrict his activities to providing information and facilitating communication. An ombudsman shall not assist a claimant, employer or any other person in any proceeding beyond the informal conference held pursuant to Section 52-5-5 NMSA 1978.

E. Each employer shall notify his employees of the ombudsman service in a manner prescribed by the director. The notice shall include the posting of a notice in one or more conspicuous places. The director shall also describe clearly the availability of the ombudsmen on the first report of accident form required under Section 52-1-58 NMSA 1978, or the first report of disablement form required under Section 52-3-51 NMSA 1978."

Chapter 22, Section 28, as amended) is amended to read:

"52-5-2. DIRECTOR--APPOINTMENT--EMPLOYEES--WORKERS'
COMPENSATION JUDGES.--

A. The workers' compensation administration shall be in the charge of a director, who shall be appointed by the governor for a term of five years with the consent of the senate. The appointed director shall serve and have the authority of that office during the period of time prior to final action by the senate confirming or rejecting the appointment. The appointment shall be made on the basis of administrative ability, education, training and experience relevant to the duties of the director. Upon the expiration of the term, the director shall continue to serve until the successor is appointed and qualified. Before entering upon the duties, the director shall subscribe to an oath to faithfully discharge the duties of the office. The director shall devote full time to the duties of the office. The director's salary shall be equal to ninety-five percent of that of court of appeals judges.

B. The director shall appoint necessary workers' compensation judges. Workers' compensation judges shall not be subject to the provisions of the Personnel Act except as provided by Subsection C of this section. Workers' compensation judges shall be appointed for an initial term of one year and shall be compensated at a rate equal to ninety

percent of that of district court judges. Ninety days prior to the expiration of a workers' compensation judge's term, the director shall review his performance. If approved by the director, the workers' compensation judge may be reappointed to a subsequent five-year term.

C. Workers' compensation judges shall be lawyers licensed to practice law in this state and shall have a minimum five years' experience as a practicing lawyer. They shall devote their entire time to their duties and shall not engage in the private practice of law and shall not hold any other position of trust or profit or engage in any occupation or business interfering with or inconsistent with the discharge of their duties as workers' compensation judges. A workers' compensation judge shall be required to conform to all canons of the code of judicial conduct as adopted by the supreme court, except canon 21-900 of that code. Violation of those canons shall be exclusive grounds for dismissal prior to the expiration of his term. Any complaints against a workers' compensation judge shall be filed with the state personnel board, which shall report its findings to the director.

D. Workers' compensation judges shall have the same immunity from liability for their adjudicatory actions as district court judges."
